UNITED NATIONS **E**

Economic and Social Council

Distr.
GENERAL

E/CN.4/2002/SR.55
1 May 2002

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS

Fifty-eighth session

SUMMARY RECORD OF THE 55th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 25 April 2002, at 10 a.m.

Chairperson: Mr. JAKUBOWSKI (Poland)

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GE.02-13653 (E) 290402 010502

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The meeting was called to order at 10.10 a.m.

REPORT OF THE SUB-COMMISSION ON THE PROMOTION AND PROTECTION OF HUMAN RIGHTS:

(b) ELECTION OF MEMBERS (E/CN.4/2002/100 and Add.1 and 2)

1. The CHAIRPERSON drew attention to the note by the Secretary-General (E/CN.4/2002/100 and Add.1 and 2) containing the nominations received and the curricula vitae of the candidates. The Commission was invited to elect, for a period of four years, 13 members of the Sub-Commission and, where applicable, their alternates, subdivided by the following regions: 3 members from African States, 3 from Asian States, 1 from Eastern European States, 3 from the Latin American and Caribbean States and 3 from Western European and other States.

2. Following the withdrawal of several candidates, the number of candidates corresponded to the number of seats available in each of the various groups. Therefore, in accordance with rule 66 of the rules of procedure, he took it that the Commission wished to elect the candidates without a vote.

3. It was so decided.

4. The CHAIRPERSON declared the following candidates elected as members of the Sub-Commission for a term of office of four years: African States: Ms. Rakotoarisoa (Madagascar), Mr. Dos Santos Alves with his alternate Mr. Dos Santos (Mozambique), Mr. Guissé (Senegal); Asian States: Mr. Chen Shiqui with his alternate Mr. Liu Xinsheng (China), Mr. Sorabjee (India), Mr. Sattar with his alternate Mr. Babar (Pakistan); Eastern European States: Mr. Kartashkin with his alternate Mr. Malguinov (Russian Federation); Latin American States: Mr. Pinheiro with his alternate Ms. Sardenberg Zelner Gonçalves (Brazil), Mr. Bengoa (Chile), Ms. O'Connor (Jamaica); Western European and other States: Mr. Decaux with his alternate Ms. Picard (France), Ms. Koufa with her alternate Mr. Zaikos (Greece), Ms. Hampson (United Kingdom of Great Britain and Northern Ireland).

SPECIFIC GROUPS AND INDIVIDUALS:

(a) MIGRANT WORKERS;

(b) MINORITIES;

(c) MASS EXODUSES AND DISPLACED PERSONS;

(d) OTHER VULNERABLE GROUPS AND INDIVIDUALS

(agenda item 14) (continued) (E/CN.4/2002/L.73, L.75-L.78, L.80, L.81, L.84 and L.86; E/CN.4/2002/2-E/CN.4/Sub.2/2001/40, chap. I, draft decision 6)

Draft resolution on the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (E/CN.4/2002/L.73)

5. Ms. ACOSTA (Mexico), introducing the draft resolution on behalf of its sponsors, stressed the need to protect the rights of migrant workers and their families. The draft resolution called on States to sign and ratify the International Convention (para. 3) and she noted that only one more ratification was needed for the Convention to enter into force. The draft resolution also requested the Secretary-General to make all the necessary provisions for the timely establishment of the committee referred to in article 72 of the Convention as soon as it entered into force and called on the States parties to submit their first periodic reports in a timely fashion.

6. The CHAIRPERSON said that the draft resolution had no programme budget implications.

7. The draft resolution was adopted.

Draft resolution on tolerance and pluralism as indivisible elements in the promotion and protection of human rights (E/CN.4/2002/L.75)

8. Mr. SABHARWAL (India), introducing the draft resolution, said the text took into account events since the fifty-sixth session of the Commission and included, for example, relevant elements from the Durban Declaration and Programme of Action and referred to initiatives and events since 2000 which had been aimed at promoting tolerance and respect for diversity. It also recognized the role the media could play in the latter regard.

9. Mr. LEBAKINE (Secretary of the Commission) said that the representatives of Algeria, Chile, Costa Rica, Croatia, Ecuador, Malaysia, Peru, Portugal, Republic of Korea, Senegal and Uruguay and the observers for Bosnia and Herzegovina, Cyprus, Finland, Georgia, Ireland, Madagascar, Mauritius, Netherlands and Ukraine had become sponsors of the draft resolution, which had no financial implications.

10. The draft resolution was adopted.

Draft resolution on internally displaced persons (E/CN.4/2002/L.76)

11. Mr. MAUTNER-MARKHOF (Austria), introducing the draft resolution on behalf of its sponsors, said that there were a number of minor changes to be made to the text: in the third line of the fourth preambular paragraph, the word "appropriate" should be inserted following "their displacement in"; in the second line of the sixth preambular paragraph, the words "by analogy" should be deleted; and, in the sixth line of the seventh preambular paragraph, the word "specific" should be deleted and replaced by the word "other".

12. In paragraph 1, the word "*Welcomes*" should be replaced by the words: "*Takes note* with appreciation of"; in the third line of paragraph 3, the words "order to raise" should be deleted and replaced by "raising"; in the fourth line of paragraph 5, the words "strategies to address" should be deleted; in the third line of paragraph 10, the word "to" following the word "including" should be deleted; in the third line of paragraph 15, the word "other" should be deleted and replaced by "all the relevant"; in the seventh line of paragraph 16, the words "agencies and" should be inserted following the word "development"; and, in paragraph 21 the words "to promote" should be removed from the first line and inserted in the third line following the words "United Nations system," and in the fourth line, the word "notably" should be deleted and replaced by "including".

13. Finally, in paragraph 23 the words "*Acknowledges* the role of national human rights institutions and the civil society in promoting and protecting the rights of internally displaced persons," should be inserted at the beginning of the paragraph, the words "with appreciation" being deleted and the words "the global" replaced by "a global". In the last line of the paragraph, the words "this effort" should be deleted and replaced by "these efforts".

14. Mr. BJATTO (Pakistan) said he regretted that so many changes had been made at such short notice. His delegation had not had an opportunity to consider them, particularly the changes to paragraph 23 and would thus not be in a position to support the draft resolution.

15. Mr. KUEHNEL (Austria) said that the updated version of the draft resolution had been circulated to delegations by e-mail and it had been assumed that States which did not respond had no objections to the changes. However, in the interest of saving time, he would withdraw the modifications of paragraph 23, on the understanding that they would be introduced once again at the Commission's next session.

16. Mr. LEBAKINE (Secretary of the Commission) said that the representatives of Argentina, Armenia, Ecuador, Japan, Mexico, Peru, Republic of Korea, United Kingdom and Uruguay and the observers for Andorra, Ethiopia and Georgia had become sponsors of the draft resolution; which had no programme budget implications.

17. Mr. SABHARWAL (India), supported by Mr. SIDDIG (Sudan), said that responsibility for protecting the interests of internally displaced persons rested first and foremost with the State concerned; any international action must respect national sovereignty and should occur only upon request from the individual State, except in rare instances where there had been a complete collapse of the State. He also reiterated that the Guiding Principles on Internally Displaced Persons, which had not been approved by Governments, could not be considered binding; at best they provided useful guidance. A State's domestic law should, however, contain adequate protection for the rights of internally displaced persons.

18. The draft resolution, as orally revised, was adopted.

Draft resolution on the rights of persons belonging to national or ethnic, religious and linguistic minorities (E/CN.4/2002/L.77)

19. Mr. MAUTNER-MARKHOF (Austria), introducing the draft resolution on behalf of its sponsors, stressed the importance of the protection of minority rights for the political and social stability, peace and cultural diversity of a State. The text recalled the importance of human rights education and the negative effects of racism, as had been highlighted at the Durban Conference, and requested the High Commissioner to report on the issue to the Commission at its next session.

20. Mr. LEBAKINE (Secretary of the Commission) said that the representatives of Argentina, Armenia, Costa Rica, Ecuador, Peru, Republic of Korea, Russian Federation and Uruguay and the observers for Andorra, Belarus, Bulgaria, Georgia, Iceland, San Marino and Ukraine had become sponsors of the draft resolution, which had no programme budget implications.

21. The draft resolution was adopted.

Draft resolution on violence against women migrant workers (E/CN.4/2002/L.78)

22. Mr. LEPATAN (Philippines), introducing the draft resolution on behalf of its sponsors, said that it reiterated the need to protect the rights of women migrant workers and, in the context of follow up to the Durban Conference, to eliminate discrimination and violence against them. Women migrant workers were vulnerable to gender-based violence and discrimination and the draft resolution encouraged the Special Rapporteur to continue to address those problems. It also urged States to ensure full respect for the relevant international instruments in protecting the rights of women migrant workers.

23. Mr. LEBAKINE (Secretary of the Commission) said that the representative of Senegal had become a sponsor of the draft resolution, which had no financial implications.

24. Mr. REYES RODRIGUEZ (Cuba) said his delegation wished to add its name to the list of sponsors.

25. The draft resolution was adopted without a vote.

Draft resolution on protection of migrants and their families (E/CN.4/2002/L.80)

26. Mr. PINOARGOTE (Ecuador), introducing the draft resolution on behalf of its sponsors, said it highlighted, inter alia, the need to facilitate the transfer of earnings, protect migrants while in transit and raise awareness of the threat of traffickers.

27. Mr. LEBAKINE (Secretary of the Commission) said that the representatives of Armenia and Senegal and the observers for Bangladesh, Haiti and Panama had become sponsors of the draft resolution, which had no financial implications.

28. The draft resolution was adopted.

Draft resolution on missing persons (E/CN.4/2002/L.81)

29. Mr. NAJAFOV (Observer for Azerbaijan), introducing the draft resolution, said that the topic of missing persons in war had been addressed by the Geneva Conventions of 1949 and their Additional Protocols of 1977. It was regrettable that the international community had failed in the past to address the issue of persons reported missing in the aftermath of international armed conflicts, which was a problem in many parts of the world. The adoption of the draft resolution would lay the groundwork for action in that field and would help to reduce the suffering of missing persons and their families.

30. Mr. LEBAKINE (Secretary of the Commission) said that the representative of Senegal and the observers for Cyprus, Kazakhstan, Panama, Ukraine and Yugoslavia had become sponsors of the draft resolution, which had no financial implications.

31. Mr. NAZARIAN (Armenia) said he welcomed the fact that the delegation of Azerbaijan had focused on humanitarian aspects when preparing the draft resolution. All his delegation's earlier concerns about the legal terminology used in the draft resolution and its inclusion under agenda item 14 had been reflected in the text, bringing it into line with the Geneva Convention of 1949; therefore his delegation wished to become a sponsor of the draft resolution.

32. Mr. SABHARWAL (India) said that, while his delegation supported the draft resolution, it was not a party to the Additional Protocols to the Geneva Conventions, which were not universally accepted; his Government reserved the right, therefore, to respond to the obligations under those instruments to an extent commensurate with its own policies and practices. The role of the International Committee of the Red Cross (ICRC) in internal armed conflicts should be limited to agreements entered into on a case-by-case basis at the request of the Government concerned.

33. The draft resolution was adopted.

Draft resolution on human rights of persons with disabilities (E/CN.4/2002/L.84)

34. Ms. WHELAN (Observer for Ireland), introducing the draft resolution on behalf of its sponsors, said that the date in the eleventh preambular paragraph should be corrected to read 27 February 2002. The draft resolution contained four new elements: a recommendation to the Ad Hoc Committee established by General Assembly resolution 56/168 to consider proposals for a comprehensive and integral international convention to promote and protect the rights and dignity of persons with disabilities; a call to strengthen the links between the Special Rapporteurs of the Commission for Social Development and the Commission on Human Rights; provisions drawing on the recommendations from the Study on Human Rights and Disability presented to the Commission; and a provision to annualize the resolution to reflect the growing importance of the issue.

35. Mr. LEBAKINE (Secretary of the Commission) said that the representatives of Algeria, Chile, Japan, Peru, Senegal and Uruguay and the observers for Albania, Andorra, Argentina, Dominican Republic, Georgia, Morocco, San Marino, Turkey, Ukraine and Yugoslavia had become sponsors of the draft resolution, which had no financial implications.

36. The draft resolution, as orally revised, was adopted.

Draft resolution on human rights of migrants (E/CN.4/2002/L.86)

37. Ms. ACOSTA (Mexico), introducing the draft resolution on behalf of its 42 sponsors, said that a number of changes had been made to the text. The word "resolution" in the second line of the fourteenth preambular paragraph should be replaced by the word "judgement". In the same paragraph, initial capital letters should be used for "Advisory Opinion" and "The Right to Information on Consular Assistance in the Framework of the Guarantees of Due Process of Law".

38. The word "fundamental" should be deleted from the first line of paragraph 3, and the words "fundamental freedoms" should be added after the words "human rights". Paragraph 4 should be modified to read:

> "*Calls upon* all States to fully implement the commitments and recommendations related to the promotion and protection of the human rights of migrants contained in the Declaration and Programme of Action of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance."

Lastly, the words "and to fully implement those instruments" should be added at the end of paragraph 24.

39. Mr. LEBAKINE (Secretary of the Commission) said that the representatives of Costa Rica and Pakistan had become sponsors of the draft resolution.

40. Ms. WONG (Secretariat) said that the total cost of the activities envisaged under paragraphs 13 and 21 of the draft resolution was estimated at $77,800 for the biennium 2002-2003 and $46,100 for the biennium 2004-2005. As provision had already been made in the programme budget for those periods, for activities of a perennial nature, no additional funding would be required if the draft resolution was adopted.

41. The draft resolution, as orally revised, was adopted.

Draft decision on the rights of non-citizens recommended to the Commission by the Sub-Commission on the Promotion and Protection of Human Rights
(E/CN.4/2002/2-E/CN.4/Sub.2/2001/40, chapter I, draft decision 6)

42. The draft decision was adopted.

43. Ms. GERVAIS-VIDRICAIRE (Canada) said that, while her delegation had supported the draft resolution on the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (E/CN.4/2002/L.73), her Government did not consider the Convention to be an effective instrument and did not wish to change its existing migration system, which had been carefully developed over a century. Over the previous decade, Canada had welcomed over 2 million new immigrants and many thousands of temporary workers. Furthermore, the Canadian Charter of Rights and Freedoms provided protection for all persons in the country, regardless of their status.

44. Her delegation recognized that many States did not provide the same protection for migrants and was thus in favour of extending the mandate of the Special Rapporteur on the human rights of migrants. However, the Commission should reduce the number of experts in the Committee provided for under the Convention or delay its establishment until a significant number of migrant-receiving countries had acceded to the Convention. Non-signatory States should invite the Special Rapporteur to visit them so as to improve the situation of migrants.

INDIGENOUS ISSUES (agenda item 15) (continued) (E/CN.4/2002/L.74, L.79, L.83 and L.85; E/CN.4/2002/2-E/CN.4/Sub.2/2001/40, chapter I, draft decisions 2, 3 and 7)

Draft resolution on the Working Group on indigenous populations of the Sub-Commission on the Promotion and Protection of Human Rights and the International Decade of the World's Indigenous People (E/CN.4/2002/L.79)

45. Ms. GEELS (Observer for New Zealand), introducing the draft resolution on behalf of its sponsors, said that it underlined the Commission's determination to promote the human rights and fundamental freedoms of indigenous people. It proposed further steps towards realizing the goal of the International Decade, which was to strengthen international cooperation to find a solution to the problems faced by indigenous peoples in such areas as human rights, the environment, development, education and health.

46. The draft resolution recommended that the Economic and Social Council should once again authorize the Working Group to meet for five working days prior to the fifty-fourth session of the Sub-Commission. It would thus supersede draft decision 2 on the Working Group on Indigenous Populations recommended by the Sub-Commission (E/CN.4/2002/2-E/CN.4/Sub.2/2001/40, chapter I, draft decision 2).

47. The proposal by the Sub-Commission that a seminar be organized on treaties, agreements and other constructive arrangements between States and indigenous peoples (E/CN.4/2002/2-E/CN.4/Sub.2/2001/40, chapter I, draft decision 3) had been incorporated into the second part of the draft resolution, which also requested the High Commissioner to seek information from Governments, NGOs and indigenous peoples' organizations on those issues to be used by the Commission at its fifty-ninth session as the basis for a decision on a possible seminar. Consequently, it also superseded Sub-Commission draft decision 3 on the International Decade of the World's Indigenous People.

48. Mr. LEBAKINE (Secretary of the Commission) said that the representatives of Germany, Peru, Russian Federation and the United Kingdom and the observer for Andorra had become sponsors of the draft resolution.

49. Ms. WONG (Secretariat) said, with regard to paragraphs 11 and 19, that she wished to draw the Commission's attention to the provision of section VI of resolution 45/248 B in which the General Assembly reaffirmed that administrative and budgetary matters were the responsibility of the Fifth Committee and the Advisory Committee on Administrative and Budgetary Questions (ACABQ).

50. The draft resolution was adopted.

Draft resolution on the Working Group of the Commission on Human Rights to elaborate a draft declaration in accordance with paragraph 5 of General Assembly resolution 49/214 of 23 December 1994 (E/CN.4/2002/L.83)

51. Mr. LORD (Canada) said that the draft resolution had been strengthened in the current year to encourage all interested States to participate in an informal inter-sessional meeting to consider the clusters of articles that would form the programme of work for the next session of the Working Group. In an effort to increase transparency and openness, the outcome of the meeting should be made available to all parties prior to the next session, indicating a willingness to prepare a declaration by the end of the International Decade of the World's Indigenous People in 2004.

52. Mr. LEBAKINE (Secretary of the Commission) said that the representatives of Austria, Costa Rica, Ecuador, Germany, Peru and Sweden and the observers for Cyprus and the Dominican Republic had become sponsors of the draft resolution.

53. Ms. WONG (Secretariat) said, with regard to paragraph 4, that she wished to draw the attention of the Commission to the provision of section VI of resolution 45/248 B in which the General Assembly reaffirmed that administrative and budgetary matters were the responsibility of the Fifth Committee and the Advisory Committee on Administrative and Budgetary Questions (ACABQ).

54. The draft resolution was adopted.

Draft resolution on human rights and indigenous issues (E/CN.4/2002/L.85)

55. Ms. ACOSTA (Mexico) said that a few changes had been made to the text of the draft resolution. The word "relevant" in the first line of the sixth preambular paragraph should be deleted, and the words "relevant to this resolution" inserted after the word "provisions". The words "relevant to this resolution" should be inserted after the word "commitments" in the first line of paragraph 14 and paragraph 13 should be deleted.

56. The sponsors welcomed the recent decision to create a Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people and the draft resolution was designed to strengthen his mandate and support his activities. It underlined the importance of concluding, by 2004 at the latest, the draft United Nations declaration on the rights of indigenous peoples.

57. Mr. LEBAKINE (Secretary of the Commission) said that the representatives of Argentina, Brazil, Canada, Costa Rica, Croatia and Portugal and the observers for Australia, Dominican Republic, New Zealand and Rwanda had become sponsors of the draft resolution.

58. Ms. WONG (Secretariat) said that the total cost of the activities envisaged under paragraph 7 of the draft resolution was estimated at $7,200 for the biennium 2002-2003. Although no provision had been made in the programme budget for that period, it was thought that the cost could be absorbed by the overall resources.

59. The draft resolution was adopted.

Draft decision on presentation of the report by the Working Group on Indigenous Populations of its nineteenth session to the Permanent Forum on Indigenous Issues, recommended to the Commission by the Sub-Commission on the Promotion and Protection of Human Rights (E/CN.4/2002/2-E/CN.4/Sub.2/2001/40, chapter I, draft decision 7; E/CN.4/2002/L.74)

60. Ms. GLOVER (United Kingdom), introducing her delegation's amendment to the Sub-Commission draft decision 7 (E/CN.4/2002/L.74), said it recommended that the Chairperson-Rapporteur of the Working Group on Indigenous Populations, Ms. Daes, should be invited to attend and address the first session of the Permanent Forum on Indigenous Issues. To avoid any confusion, she wished to point out that Ms. Daes was not being asked to present the report of the Working Group. There were two minor changes to be made to the text: in the penultimate line after the words "to attend" the words "and address" should be added and the word "meeting" should be replaced by the word "session".

61. Mr. REYES RODRIGUEZ (Cuba) said that the purpose of the United Kingdom amendment was not clear. He therefore requested the representative of the United Kingdom to clarify what Ms. Daes would be expected to do at the Permanent Forum.

62. Ms. GLOVER (United Kingdom) said that the purpose of the proposed amendment was to ensure that the Commission operated in a procedurally correct manner and to reflect the high esteem in which Ms. Daes was held within the Commission. She regretted that the representative of Cuba had misunderstood her delegation's intentions.

63. Mr. REYES RODRIGUEZ (Cuba) said that, as a compromise solution, his delegation proposed a sub-amendment whereby the word "address" in the penultimate line would be replaced by the words "to present her contributions to".

64. Ms. JANJUA (Pakistan) suggested that the amendment proposed by the United Kingdom and the sub-amendment proposed by Cuba be combined so that the wording would read "to attend, address and present contributions" to the first session of the Permanent Forum.

65. Mr. DEMBRI (Algeria) said that he had compared the draft decision recommended by the Sub-Commission with the amendment proposed by the United Kingdom and there appeared to be a difference in interpretation. As proposed in the United Kingdom amendment, Ms. Daes' attendance at the meeting without having the opportunity to speak could be interpreted as an act of censure against her. If that were so, his delegation would be unable to agree to the proposed amendment.

66. Ms. GLOVER (United Kingdom) said that her delegation's proposal had not been intended as a form of censure but purely to ensure that the correct procedure would be followed and that there would be no ambiguity regarding the role of the Working Group and that of the Permanent Forum. Her delegation was willing to accept the suggestion by the representative of Pakistan.

67. Ms. WONG (Secretariat) said that, if adopted, the total cost of the decision would amount to US$ 7,900. No provision had been included in the programme budget for the biennium 2000-2003, but it was thought that the cost could be absorbed in overall resources.

68. Ms. NASCIMBENE de DUMONT (Argentina) asked whether the title of the draft decision recommended by the Sub-Commission would have to be changed if the United Kingdom amendment, with the revision accepted by its sponsor, were adopted.

69. The CHAIRPERSON said that, if the United Kingdom amendment was adopted, draft decision 7 would be superseded.

70. The United Kingdom amendment, as orally revised, was adopted.

REPORT OF THE SUB-COMMISSION ON THE PROMOTION AND PROTECTION OF HUMAN RIGHTS:

(a) REPORT AND DRAFT DECISIONS

(agenda item 16) (continued) (E/CN.4/2002/L.87 and L.114; E/CN.4/2002/2-E/CN.4/Sub.2/2001/40, chapter I, draft decisions 8 and 9).

Draft resolution on the work of the Sub-Commission on the promotion and protection of human rights (E/CN.4/2002/L.87)

71. Mr. FOLMER (Observer for Luxembourg), introducing the draft resolution, said that the text was based on the previous session's resolution which had made several recommendations regarding the working methods of the Sub-Commission. It had proved impossible for delegations to agree to two of the draft decisions recommended by the Sub-Commission regarding the length of its session and the submission of proposals to the Commission's informal meeting in September. Consequently, draft decisions 8 and 9 had been replaced by paragraphs 7 and 10 (f) of the draft resolution.

72. Mr. LEBAKINE (Secretary of the Commission) said that the representatives of Armenia and Chile and the observers for Andorra, Malta and Switzerland had become sponsors of the draft resolution, which had no financial implications.

73. The draft resolution was adopted.

Draft resolution on the report of the Sub-Commission on the promotion and protection of human rights (E/CN.4/2002/L.114)

74. Mr. OMOTOSHO (Nigeria), introducing the draft resolution on behalf of the African Group, said that it invited the Sub-Commission to give careful consideration to the Durban Declaration and Programme of Action adopted by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance.

75. Mr. LEBAKINE (Secretary of the Commission) said that the representative of Uruguay and the observer for Ukraine had become sponsors of the draft resolution, which had no financial implications.

76. Mr. REYES RODRIGUEZ (Cuba) said that he, too, wished to become a sponsor of the draft resolution.

77. Ms. GERVAIS-VIDRICAIRE (Canada) said that her delegation had strong reservations about the Durban Declaration, which it had already made known. Although the Durban Conference had contributed in some ways to the eradication of racial discrimination, in others it had not and her delegation thus requested a recorded vote on the draft resolution and expressed its intention of abstaining.

78. Mr. HEYWARD (Observer for Australia) said that his delegation wished to associate itself with the comments by the Canadian representative.

79. Mr. KHABBAZ-HAMOUI (Syrian Arab Republic) said that his delegation also wished to be added to the list of sponsors of the draft resolution.

80. At the request of the representative of Canada, a recorded vote was taken on the draft resolution.

In favour: Algeria, Argentina, Armenia, Austria, Bahrain, Belgium, Brazil, Burundi, Cameroon, Chile, China, Costa Rica, Croatia, Cuba, Czech Republic, Democratic Republic of the Congo, Ecuador, France, Germany, Guatemala, India, Indonesia, Italy, Japan, Kenya, Libyan Arab Jamahiriya, Malaysia, Mexico, Nigeria, Pakistan, Peru, Poland, Portugal, Republic of Korea, Russian Federation, Saudi Arabia, Senegal, Sierra Leone, South Africa, Spain, Sudan, Swaziland, Sweden, Syrian Arab Republic, Thailand, Togo, Uganda, United Kingdom of Great Britain and Northern Ireland, Uruguay, Venezuela, Viet Nam, Zambia.

Against: None.

Abstaining: Canada.

81. The draft resolution was adopted by 52 votes to none, with 1 abstention.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, INCLUDING:

(a) QUESTION OF HUMAN RIGHTS IN CYPRUS

(agenda item 9) (continued) (E/CN.4/2002/L.32)

Draft resolution on the situation of human rights in Myanmar (E/CN.4/2002/L.32)

82. Mr. PEREZ-VILLANUEVA y TOVAR (Spain), speaking on behalf of the European Union and the other sponsors of the draft resolution, said it drew attention to a range of human rights violations occurring in Myanmar. It expressed grave concern at the slow pace of reforms and the lack of tangible results in the talks between the Government and Aung San Suu Kyi. The draft resolution also welcomed, however, some positive developments since the Commission's previous session, including the release of some political prisoners, the assistance given to the Special Rapporteur on the situation of human rights in Myanmar during his visits, the launching of the United Nations Joint Action Plan on HIV/AIDS and the agreement with the International Labour Organizations (ILO) concerning the appointment of an ILO Liaison Officer in Myanmar.

83. Mr. LEBAKINE (Secretary of the Commission) said that the representatives of Cuba, Guatemala, Peru and the Republic of Korea and the observers for Albania, Andorra, Malta, Norway, San Marino, Switzerland, Turkey and the United States of America had become sponsors of the draft resolution.

84. Ms. WONG (Secretariat) said that the total cost under paragraph 8 (a) would be US$ 52,700. Provision had already been included under Section 22 for the biennium 2002-2003 and no additional appropriations would be required if the draft resolution were adopted.

85. Mr. PEREZ VILLANUEVA y TOVAR (Spain) said that, to avoid taking up the Commission's time, he had not given details of all the revisions that had been distributed in a document that morning but one extremely late change had not been included in that document: in the fifth line of the sixth preambular paragraph, the word "system" should be replaced by the word "practice".

86. Mr. THAN (Observer for Myanmar) said that his delegation had been disappointed with the draft resolution for 2002 which ran counter to the idea of cooperation between the Commission and a concerned country to encourage improvement in its human rights situation. There had been significant developments in the political field in Myanmar during the year, including the release of over 580 detainees. His Government's cooperation with United Nations bodies and other international organizations had also reached new heights.

87. National reconciliation was an internal political issue and the Government of Myanmar could not accept any attempt by outsiders to influence events by using pressure tactics under the pretext of promoting the cause of human rights. Consequently, paragraph 3 (a) of the draft resolution, which referred to the slow pace of the process of national reconciliation and democratization in Myanmar, was unacceptable to his delegation.

88. Paragraph 5 (d) made allegations of restrictions on the exercise of freedom of religion which were unsubstantiated by concrete evidence. Myanmar was a country well known for its religious tolerance and it embraced the four major religions of the world.

89. Since his delegation did not accept the need for any resolution on the situation of human rights in Myanmar, it found the draft resolution unacceptable, disassociated itself from it, and would not be bound by it. He hoped that at the Commission's next session, the draft resolution would reflect many more positive developments in Myanmar.

90. Mr. AHMAD JAZRI (Malaysia), speaking on behalf of the Association of South-East Asian Nations (ASEAN), said that the draft resolution should have been crafted in an unbiased manner, reciprocating the spirit of cooperation that the Government of Myanmar had extended to the Special Rapporteur who had, in his turn, noted the progress made by the Government in the political, economic and social fields. The adoption of the principle of mutual accommodation would have made the draft resolution satisfactory to both parties and its objectives would thus have been achievable. Indeed, it would have been preferable if the draft resolution had been tabled under agenda item 19, and entitled "Assistance to Myanmar in the field of human rights", rather than confrontationally under agenda item 9.

91. Mr. SABHARWAL (India) said that the Government of Myanmar had cooperated with the Special Envoy of the Secretary-General, the Special Rapporteur, the ILO and the ICRC. Nothing should be done to jeopardise the positive trends in that country, which were noted in the draft resolution itself. Encouragement to the Government would better serve the goal of promoting and protecting human rights. Moreover, the pace of political dialogue within Myanmar must be determined by the two sides concerned; outside pressure could be counterproductive. Lastly, the international community must ensure that the requisite humanitarian aid was provided to Myanmar and was not curtailed in any manner.

92. Ms. JANJUA (Pakistan) said that her delegation, which had consistently called for dialogue rather than a sanctions-based approach to the question of human rights in Myanmar, had hoped for a more balanced draft resolution. The Government of Myanmar had cooperated with United Nations mechanisms and the ILO. More would be achieved if a greater reliance were placed on consultation.

93. Mr. SIDDIG (Sudan) said that, although the draft resolution noted a number of positive developments in Myanmar, it did not have the requisite balance. The Government of Myanmar had shown flexibility in dealing with the international community and was making real progress. The Commission should adopt a positive approach, focusing on cooperation rather than confrontation.

94. The draft resolution, as orally revised, was adopted.

95. Mr. SHEN Yongxiang (China), said that, in a spirit of cooperation, his delegation had not opposed the unanimous adoption of the draft resolution. It had some misgivings, however. Myanmar was a small developing country facing considerable difficulties, yet its Government had done much to protect its people's human rights and bring about national reconciliation. Religious freedom had been restored, education improved and considerable success achieved in halting the spread of HIV/AIDS. Progress had been remarkable in many areas. The Government had also cooperated with United Nations human rights mechanisms, as the reports of the Special Rapporteur and the Secretary-General showed.

96. The Commission should show support and encouragement. It was regrettable that the information given in the draft resolution was neither objective nor complete; indeed, it came close to interfering in the internal affairs of Myanmar. Human rights should not be used to apply political pressure. He wished the record to reflect his delegation's deep sympathy for the Government of Myanmar.

97. Mr. WATANABE (Japan) said that it was important that the international community should acknowledge the positive developments that had occurred in Myanmar. The text of the draft resolution should have been more balanced, taking fuller account of general trends and basing itself on reliable sources of information. His delegation welcomed the fact that the sponsors had incorporated some more up-to-date information, but the resulting text still failed to reflect properly the tone of the Special Rapporteur's report (E/CN.4/2002/45). Improvements should be made in the future when a draft resolution came to be submitted at the Commission's fifty-ninth session. In the meantime, it was to be hoped that the Government of Myanmar would continue its efforts to advance the process of reconciliation.

RACISM, RACIAL DISCRIMINATION, XENOPHOBIA AND ALL FORMS OF DISCRIMINATION (agenda item 6) (continued) (E/CN.4/2002/L.12)

Draft resolution on racism, racial discrimination, xenophobia and related intolerance (E/CN.4/2002/L.12)

98. Mr. OMOTOSHO (Nigeria), introducing the draft resolution on behalf of the African Group, said that experience with the preparatory processes of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, the Conference itself and the protracted and undue delays in the endorsement of the Durban Declaration and Programme of Action by the General Assembly were clear indications that renewed political will and commitment were necessary to combat the scourge of racism.

99. The African Group had made several efforts to accommodate the concerns of the European Union and the Western European and Others Group regarding the first part of the draft resolution, with which they had had difficulties. The sole purpose of the sponsors, however, was to take forward the decisions of the Conference within the Commission. In that connection there were two changes to be made to that text: in paragraph 28, the phrase "particularly those contrary to the object and purpose of the Convention" should be deleted; and in paragraph 34, the word "*Urges*" should be replaced by the word "*Requests*".

100. The draft resolution posed a serious challenge to both the conscience and the commitment of the international community. The implementation of the Durban Declaration and Plan of Action should be a matter of priority for all States. Equally important was the issue of the review of implementation at the international level. It was to be hoped that, in spite of the difficulties encountered in the negotiation of the draft resolution, it would, as at previous sessions of the Commission, be adopted unanimously.

101. Mr. LEBAKINE (Secretary of the Commission) said that the representatives of Chile, China, Costa Rica, India, Mexico, Pakistan, Saudi Arabia and the Syrian Arab Republic had become sponsors of the draft resolution.

102. Mr. CORRALES LEAL (Venezuela) said that his delegation, which had played an active part in the preparatory process for the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, in the Regional Conference of the Americas in Santiago, Chile, and in the Durban Conference itself, considered that the adoption of the various recommendations of the Conference was of supreme importance for the victims of racism, who, in the case of his region, were basically migrants, indigenous people and people of African descent. The first step to be taken was to give practical effect to the recommendation in paragraph 7 of the Durban Programme of Action that a working group of five independent experts should study the situation of people of African descent and propose measures to improve their access to human rights.

103. The text of the draft resolution was the product of extensive negotiation. It was regrettable that, even if the text was not completely satisfactory to all parties, it had not been possible to reach a consensus since, without full support, recommendations would not be properly implemented. Yet the situation of the victims of racism must be improved.

104. Mr. ARENALES FORNO (Guatemala), speaking in explanation of vote before the voting, said that practically all the recommendations contained in the Durban Declaration and Plan of Action would be useful in the fight against racism, to which his delegation was fully committed. It was, however, forced to dissociate itself from certain provisions relating to the Middle East and to indigenous peoples. In the latter case, his delegation would continue, in the appropriate bodies, to seek ways of improving the situation of indigenous peoples and to work for recognition of their identity and individual and collective rights. The references to the Middle East, however, were inappropriate and disproportionate and would actually hamper the implementation of the Durban Programme of Action. The Conference itself had, nonetheless, represented a step forward.

105. His delegation supported the initiatives in paragraph 8 of the draft resolution but seriously questioned those in paragraph 7: the mandate of the proposed intergovernmental working group was too broad and too ambiguous. His delegation would, however, support the draft resolution in the hope that the proposed working group would not focus too closely on the issues regarding which it had reservations.

106. Mr. PÉREZ-VILLANUEVA y TOVAR (Spain), speaking on behalf of the European Union and the countries associated with the Union that were members of the Commission, said that the Union shared the common commitment to the eradication of racism

and reaffirmed its readiness to transform the Durban Declaration into reality. All efforts should, however, be made to develop a consensual approach to the implementation of the Declaration. It was regrettable that, for the first time for many years, such an approach to a draft resolution on the subject had not been possible. The various proposals by the sponsors had provided a far from acceptable basis for discussion. The consensus reached in Durban and the broad agreement in the General Assembly should have been maintained and the draft resolution should have focused primarily on specific measures against racism. While looking forward to constructive discussions on the issue in the future, the Union regretted that it was compelled to call for a vote on the draft resolution and would vote against it.

107. Ms. GERVAIS-VIDRICAIRE (Canada) said that, although her delegation was strongly and sincerely committed to the eradication of racism and related intolerance that was often based on language and religion, the draft resolution before the Commission focused on the follow-up to the Durban Conference, which had been inexcusably marred by unacceptable references to the Middle East. Her delegation dissociated itself completely from all references in the Durban Declaration and Programme of Action directly or indirectly relating to the Middle East and from any language that could be construed as endorsing the implementation of provisions of the Declaration and Programme of Action to which it had not agreed.

108. That being said, her delegation had been encouraged by the recognition in the Declaration and Programme of Action of the situation faced by indigenous peoples and the attention paid to the concept of multiple discrimination, the role of education, youth, the media, the Internet and globalization. The draft resolution did not, unfortunately, take the opportunity to build on those positive elements. Resources should not be scattered on a multiplication of mechanisms. Appropriate time and discussion should be devoted to the elaboration of new mandates. Moreover, in dealing with the issue of racism, great efforts must be made to ensure that discussions remained inclusive. Lastly, paragraph 38 appeared to be in contradiction with the decisions taken during the Review of Mechanisms in 1999. All in all, therefore, her delegation would be unable to support the draft resolution.

109. Mr. REYES RODRÍGUEZ (Cuba) said that his delegation welcomed the draft resolution, which provided a clear road map for the way forward together with an assessment of the Durban Declaration and Programme of Action. His delegation would, however, have liked to see a reference to the genocide and crimes against humanity committed in Cuba and committed by Israel in Palestine, as well as a reference to compensation and reparation. Even as it stood, however, the draft resolution was of considerable importance. He noted that one group of countries had thought that, by withdrawing its support, it would prevent the sponsors from finalizing a text; but it was wrong. It was clear in which quarter the lack of flexibility was to be found.

110. Mr. VOŠLIK (Czech Republic) said that the fight against racism, which should be given the highest priority, could not be fought successfully unless a consensual approach was adopted. The lack of such an approach for the first time for many years was regrettable, as was the impossibility of his delegation's voting for the draft resolution as it stood.

111. A particular bone of contention was paragraph 38; it was contrary to the Commission's usual practice to give special rapporteurs more than two successive mandates. He therefore proposed an amendment whereby that paragraph would simply read: "*Decides* to renew the mandate of the Special Rapporteur for three years". He trusted that the sponsors would be able to accept the amendment. If not, he requested a recorded vote thereon.

112. Mr. MONTWEDI (South Africa) said that it was extremely difficult at such a late stage of the proceedings to consider new amendments. Paragraph 38 had formed part of the draft resolution from the outset and, if the matter had been raised earlier, the sponsors, for whom he spoke, could well have proved flexible. As it was, they would have to oppose the draft amendment.

113. Mr. REYES RODRÍGUEZ (Cuba), said that there had been previous occasions on which a special rapporteur had been specifically named in a draft resolution.

114. Ms. GERVAIS-VIDRICAIRE (Canada), supported by Mr. LOPEZ-AGUILAR (Spain), speaking on behalf of the European Union, said that her delegation strongly supported the proposed amendment. The Special Rapporteur had, indeed, already served for over six years.

115. Mr. OMOTOSHO (Nigeria) said that he was extremely surprised that such an objection had been raised at such a late stage in the proceedings.

The meeting rose at 1.05 p.m.